

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF OKLAHOMA

FILED

JUL 06 2011

RODNEY A. NASH,)
)
Plaintiff,)
)
vs.)
)
MICHAEL J. ASTRUE, Commissioner)
of the Social Security Administration,)
)
Defendant.)

ROBERT D. DENNIS, CLERK
U.S. DIST. COURT, WESTERN DIST. OF OKLA.
BY Luk DEPUTY

No. CIV-10-1004-W

ORDER

On June 15, 2011, United States Magistrate Judge Doyle W. Argo issued a Report and Recommendation in this matter and recommended that the decision of defendant Michael J. Astrue, Commissioner of the Social Security Administration ("Commissioner"), denying the Applications for Supplemental Security Income and Disability Insurance Benefits filed by plaintiff Rodney A. Nash be reversed. Magistrate Judge Argo further recommended that this matter be remanded to the Commissioner for additional administrative proceedings. The parties were advised of their right to object to Magistrate Judge Argo's Report and Recommendation, but neither party has objected within the allotted time.

Upon review of the record, the Court concurs with Magistrate Judge Argo's finding that remand of this matter is warranted not only because the hypothetical questions posed by the Administrative Law Judge ("ALJ") to Jennifer Sullivan, the vocational expert, failed to include all mental impairments assessed by the ALJ, e.g., Evans v. Chater, 55 F.3d 530, 532 (10th Cir. 1995)(administrative law judge's hypothetical question must include all impairments borne out by evidentiary record), but also because Sullivan gave testimony

that was not consistent with, and in fact, conflicted with, the Dictionary of Occupational Titles ("DOT"), e.g., Hackett v. Barnett, 395 F.3d 1168, 1176 (10th Cir. 2005), and the ALJ failed to ask Sullivan whether her testimony was incompatible with the DOT. E.g., Haddock v. Apfel, 196 F.3d 1084 (10th Cir. 1999).

Accordingly, the Court


(1) ADOPTS the Report and Recommendation [Doc. 18] issued on June 15, 2011;

(2) REVERSES the Commissioner's decision denying Nash's Applications for Supplemental Security Income and Disability Income Benefits;

(3) REMANDS this matter to the Commissioner pursuant to sentence four of Section 205(g) of the Social Security Act, 42 U.S.C. § 405(g), for further administrative proceedings in accordance with this Order, Magistrate Judge Argo's Report and Recommendation and extant case law; and

(4) ORDERS that judgment pursuant to this Order issue forthwith.

ENTERED this 6th day of July, 2011.


LEE R. WEST
UNITED STATES DISTRICT JUDGE